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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,760	03/18/2004	Renato Angelo Marchesini	2503-1083	4670
466	7590	06/01/2007	EXAMINER	
YOUNG & THOMPSON			ABRAHAM, SALIEU M	
745 SOUTH 23RD STREET				
2ND FLOOR				
ARLINGTON, VA 22202			ART UNIT	PAPER NUMBER
			3709	
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			06/01/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/802,760	MARCHESINI ET AL.
Examiner	Art Unit	
Salieu M. Abraham	3709	

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 18 March 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-7 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-7 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 18 March 2004 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 09/16/2004

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_ .  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_\_ .

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because figures 2 and 3 are not of sufficient quality to permit examination. Accordingly, replacement drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to this Office action. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

2. a. The abstract is objected to because it contains improper language. (See MPEP § 608.01(b). and MPEP § 6.16 below).

Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. **The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided.** The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

b. The corresponding structure(s) for the "means designed to" (interpreted "means for"; see claim objections) claim recitations are unclear in the specification.

Correction is required.

3. For the purposes of this office action the claim language "means designed to" in the application have been interpreted by the examiner to be invoking 35 U.S.C. 112 sixth paragraph. However, it is noted that to be proper the claim language should replace the phrase "means designed to" by "means for". Therefore, applicant is directed to amend all such recitations in the claims.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the sixth paragraph of 35 U.S.C. 112:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

(Amended July 24, 1965, Public Law 89-83, sec. 9, 79 Stat. 261; Nov. 14, 1975, Public Law 94-131, sec. 7, 89 Stat. 691.)

a. A claim limitation will invoke 35 U.S.C. 112, sixth paragraph if it passes the following three-pronged test:

- i. The claim limitations **must use** the phrase "means for" or "step for",
- ii. The phrase "means for" or "step for" **must be modified** by functional language, and

iii. The phrase "means for" or "step for" **must not be modified** by sufficient structure, material or acts for achieving the specified function.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1– 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**In Reference to Claims 1-7**

Claim 1, for example, recites "means designed to input said data extrapolated from said images into the neural network". However, the specification fails to clearly set forth exactly what structures define the specific means (as recited in this claim) to provide the specifically recited function. More specifically, claim 1 also recites the following:

a. "means designed to generate a neural network" – there is no description in the specification which identifies how the neural network is generated. The specification makes reference to the fact that "the apparatus according to the invention is based on the use of a neural network system" (see page 3 , lines 5 and 6 of the specification), as well as a probe "connected via an interface to a computer , which in turn is implemented with a neural network" (page 4, lines 26 and 27), and "the neural network" consisting of a set of either "hardware devices

or programs ....". However, no description is given of any specific structure for generating a neural network.

b. "means designed to segment and parameterise each of said images" – also fails to find any specifically disclosed structure to produce the claimed function; this is particularly true with regard to what specifically segments the images: computer software, hardware, a dedicated image analysis device incorporating both, etc. Reference is only made to image acquisition (see page 6, lines 23-28 and page 7, lines 1-20).

These examples are only exemplary of the numerous means plus function recitations found in the rest of the claims rejected above. Therefore, the specification fails to define what the actual apparatus is that performs the specifically claimed functions.

7. In view of the objections to the specification and 35 U.S.C. 112 ( 2<sup>nd</sup>) rejections above, the claims could not adequately be interpreted to apply art. The absence of rejections based upon prior art should not be taken as indication of allowable subject matter.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Salieu M. Abraham whose telephone number is (571)

270-1990. The examiner can normally be reached on Monday through Thursday 8:30 am - 6:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Bomberg can be reached on (571) 272-4922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

5/23/07

SA



THAO X. LE  
PRIMARY PATENT EXAMINER